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INTERGOVERNMENTAL NEGOTIATING COMMITTEE FOR THE ELABORATION OF AN INTERNATIONAL CONVENTION TO COMBAT DESERTIFICATION IN THOSE COUNTRIES EXPERIENCING SERIOUS DROUGHT AND/OR DESERTIFICATION, PARTICULARLY IN AFRICA
Fifth session
Paris, 6-17 June 1994
Agenda item 2

ELABORATION OF AN INTERNATIONAL CONVENTION TO COMBAT DESERTIFICATION IN COUNTRIES EXPERIENCING SERIOUS DROUGHT AND/OR DESERTIFICATION, PARTICULARLY IN AFRICA

Proposed modifications to the negotiating text relating to categories of countries

Note by the Secretariat

1. The present document was prepared by the Secretariat at the request of the Bureau following its meeting in Paris, on 12-14 April. The proposed modifications to the negotiating text seek to apply the guidelines agreed by Bureau members with respect to the issue of categories of countries. This comprehensive set of proposals seeks to ensure the consistent use, throughout the Convention, of terms relating to categories of countries.

2. In examining the attached text, delegates should note the following:

(a) Articles and paragraphs not included in the attached paper are unaffected;

(b) Proposed adjustments in the use of "affected country Parties", "developing country Parties", "developed country Parties" and "affected developing country Parties" are underlined (consequential changes were made to articles 15 (a) and (c) and 18, even though these were not bracketed);

(c) The shaded portions of text indicate proposed additions;

(d) The overstruck portions of text indicate proposed deletions;

(e) A reference to affected countries of the former Soviet Union is proposed in the Preamble, so as to avoid creating a new category of countries;

(f) The addition of a new subparagraph is proposed in Article 1 to include the European Union in the phrase "developed country Parties", avoiding the need to refer to it repeatedly throughout the Convention;

(g) Appropriate wording is included in Article 6 to ensure that affected countries of the former Soviet Union are eligible for assistance and that all Parties may provide assistance to eligible countries on a voluntary basis, without creating new categories of countries; consequent changes have been made to Article 9;

(h) Article 9 is modified to allow affected developed country Parties to choose to prepare a national action programme through notification to the depositary;

(i) A definition of "affected developing country Parties" is not required since it is clear that this category includes all affected countries (defined in Article 1, subparagraph (i)) which are also developing countries;

(j) "Developing country Parties" and "developed country Parties" need not be defined since the composition of these groups is well established in the practice of the General Assembly.

PROPOSED MODIFICATIONS

PREAMBLE

~~9. [Acknowledging that special attention should be given to problems of combating desertification and mitigating the effects of drought in countries with economies in transition, and recognizing that these countries are facing unprecedented challenges in transforming their economies, in some cases in the midst of considerable social and political tension,]~~

19. [Recognizing that special provision is required to meet the needs of affected developing countries, including the provision of new and additional financial resources and appropriate access to relevant technologies,]

19 bis. Acknowledging that special attention should be given to the problems of affected countries which were part of the former Soviet Union;

Article 1

Use of terms

(h) "affected areas" means arid, semi-arid and/or dry sub-humid areas affected or threatened by desertification;

(i) "affected countries" means countries whose lands include, in whole or in part, affected areas;

~~[(j) "other Parties in a position to provide assistance" means Parties other than the developed country Parties and any regional integration organisation which can provide on a voluntary basis, knowledge, know-how and techniques related to desertification, and/or financial resources, to affected developing country Parties;]~~

(i bis) "developed country Parties" includes regional economic integration organizations constituted of developed countries;

~~[3. Affected country Parties eligible for assistance under this Convention are the developing countries, particularly African country Parties.]~~

Article 4

General obligations

2. In pursuing the objective of this Convention, the Parties shall:

(b) give due attention, within the relevant global and regional bodies, to the situation of affected developing country Parties with regard to international trade, marketing arrangements and debt with a view to establishing an enabling international economic environment conducive to the promotion of sustainable development;

[(h) develop financial mechanisms that provide for new and additional resources to affected developing country Parties in combating desertification and mitigating the effects of drought.]

Article 5

Obligations of affected country Parties

~~2. Affected developed country Parties are not entitled to receive assistance in the form of financial resources under the terms of this Convention for activities they undertake to combat desertification.~~

Article 6

Obligations to provide assistance in implementation

1. Affected developing country Parties are eligible for assistance in the implementation of the Convention. Affected country Parties which were part of the former Soviet Union are also eligible for such assistance. Affected developed country Parties are not eligible to receive assistance in the form of financial resources.

2. In addition to their general obligations pursuant to Article 4, developed country Parties undertake to support the implementation of the Convention, particularly by promoting and facilitating access to, and providing, financial resources, appropriate knowledge, know-how and technology and other forms of assistance to Parties eligible for assistance, particularly

affected developing country Parties, for the preparation and implementation of their long-term plans and strategies to combat desertification and mitigate the effects of drought.

3. Any Party may provide on a voluntary basis knowledge, know-how and techniques related to desertification, and/or financial resources, to affected country Parties eligible for assistance in implementation of the Convention.

4. In providing support pursuant to paragraphs 2 and 3, priority shall be given to affected African country Parties, in accordance with Article 7, and affected least developed country Parties.

Article 7

Priority to Africa

In implementing the provisions of this Convention, the Parties shall give priority to affected African country Parties, in the light of the particular situation prevailing in this region, while not neglecting affected country Parties in other regions. This priority shall also apply in the context of implementing the Regional Implementation Annex for Africa.

Article 9

Basic approach

1. In carrying out their obligations pursuant to Article 5, affected developing country Parties, other Parties eligible for assistance pursuant to Article 6, and any other affected Party that has notified the Depositary in writing of its intention to prepare a national action programme, shall prepare, make public, and implement national action programmes, building to the extent possible on existing relevant successful plans and programmes, and, as appropriate, subregional and regional action programmes, as the central element of the strategy to combat desertification and mitigate the effects of drought. Such programmes shall be updated through the continuing participatory process on the basis of lessons from field action, as well as the results from research, at intervals to be recommended by the Conference of the Parties. This process of preparing national action programmes shall be closely interlinked with other efforts to formulate national policies for sustainable development.

2. Developed country Parties shall support this process [as mutually agreed with, individually or jointly, and upon request] from, affected country Parties,] [particularly those in Africa], either directly or through appropriate intergovernmental organizations, in accordance with Article 6.

Article 13

Support for the elaboration and implementation of action programmes

~~[Developed country Parties] [Developed country Parties and other Parties in a position to provide assistance] [Parties in a position to provide assistance] shall, as mutually agreed, support the action programmes of~~

~~[developing] country Parties [needing assistance], both bilaterally and through competent intergovernmental organizations, through financial, technical and other forms of cooperation as provided for in this Convention. In providing such support, priority shall be given to African countries and the least developed countries. Supporting measures include, inter alia:~~

Measures to support action programmes pursuant to Article 9 shall include, inter alia:

Article 14

Coordination in the elaboration and implementation of action programmes

2. The Parties shall develop operational mechanisms, particularly at the national and field levels, to ensure the fullest possible coordination among developed country Parties, developing country Parties and relevant international and non-governmental organizations, in order to avoid duplication, harmonize interventions and approaches, and maximize the impact of assistance. In affected developing country Parties, priority will be given to coordinating activities related to international cooperation in order to maximize the efficient use of resources, to ensure responsive assistance, and to better facilitate the implementation of national plans and priorities pursuant to the Convention. Arrangements relating to the form of such coordination are set out in the Regional Implementation Annexes.

[Article 15]

Regional implementation annexes

Elements for incorporation in action programmes shall be selected and adapted to the socio-economic, geographic and climatic factors applicable to affected country Parties or regions, as well as to their level of development. Guidelines for the preparation of action programmes and their exact focus and content for particular subregions and regions are set out in the Regional Implementation Annexes, which include obligations with respect to:

(a) the specific areas to be covered in the action programmes of affected country Parties of a particular region or subregion and the measures required in each of these areas;

(b) the measures to be taken jointly by groups of Parties choosing to cooperate in the preparation and implementation of action programmes in a particular region or subregion; and

(c) the degree and nature of assistance required from developed country Parties in order to elaborate and implement action programmes.

Article 17

Research and development

1. The Parties undertake, according to their respective capabilities, to promote technical and scientific cooperation in the fields of combating desertification and mitigating the effects of drought through appropriate national, subregional, regional and [existing] international institutions. To this end, they shall support research activities that:

(d) develop and strengthen national, subregional and regional research capabilities in affected developing country Parties, particularly in Africa, including the development of local skills and the strengthening of appropriate capacities, especially in countries where the research base is very weak, giving greater importance to multidisciplinary and participative socio-economic research;

Article 18

Transfer, acquisition, adaptation and development of technology

1. The Parties undertake, on mutually agreed terms, and in accordance with their respective national legislation and/or policies, to promote, finance and/or facilitate the financing of the transfer, acquisition, adaptation and development of environmentally sound, economically viable and socially acceptable technologies relevant to combating desertification and/or mitigating the effects of drought, with a view to contributing to the achievement of sustainable development in affected areas. Such cooperation shall be conducted bilaterally or multilaterally, as appropriate, making full use of the expertise of intergovernmental and non-governmental organizations. The Parties shall, in particular:

(b) facilitate access, in particular to affected developing country Parties, on favourable terms, including on concessional and preferential terms, as mutually agreed, taking into account the need to protect intellectual property rights, to technologies most suitable to practical application for specific needs of local populations, paying special attention to the social, cultural, economic and environmental impact of such technology;

(d) extend technology cooperation with affected developing country Parties, including, where relevant, joint ventures, especially to sectors which foster alternative livelihoods; and

Article 19

Capacity building, education and public awareness

1. The Parties recognize the significance of capacity building, that is institution building, training and development of relevant local and national capacities in efforts to combat desertification and mitigate the effects of drought. They shall promote, in all appropriate capacity building activities:

(g) cooperation, as mutually agreed, to strengthen the capacity of affected developing country Parties to develop and implement programmes in the field of information collection, analysis and exchange in accordance with Article 16;

2. Affected developing country Parties shall conduct, in cooperation with other Parties and competent intergovernmental and non-governmental organizations, as appropriate, an interdisciplinary review of available capacity and facilities at the local and national levels, and the potential for strengthening them.

3. The Parties shall cooperate individually, collectively and through competent intergovernmental and international organizations, as well as with non-governmental organizations, to undertake and support public awareness and educational programmes in both affected and, where relevant, unaffected countries to promote understanding of the causes and effects of desertification and drought and of the importance of meeting the objectives of this Convention. To this end, they shall:

(d) develop and exchange educational and public awareness material, where possible in local languages, exchange and second experts to train personnel of affected developing country Parties in carrying out relevant education and awareness programmes, and fully utilize relevant educational materials available in competent international bodies;

Article 22

Conference of the Parties

6. At each ordinary session, the Conference of the Parties shall elect a Bureau. The structure and functions of the Bureau shall be determined in the rules of procedure. Due regard shall be paid in appointing the Bureau to the need to ensure equitable geographic distribution [and adequate representation of affected country Parties, particularly in Africa].

Article 23

[Permanent] Secretariat

2. The functions of the [Permanent] Secretariat shall be:

(c) to [facilitate assistance to][advise] affected developing country Parties, on request, particularly in Africa, in the compilation and communication of information required [of them under the provisions of the Convention] [in accordance with Article 26];

Article 26

Communication of information

3. Affected country Parties which implement action programmes pursuant to Articles 9 to 15 shall provide a detailed description of the programmes and of [any relevant information on] their implementation.

5. Developed country Parties shall report on measures taken to assist in the preparation and implementation of action programmes, [including information on the financial resources they have provided, or are providing, under this Convention].

7. The Conference of the Parties [may recommend measures that may be taken by affected developing country Parties, particularly in Africa, to obtain] [shall arrange for the provision to affected developing country Parties, particularly in Africa, on request, of] technical and financial support in compiling and communicating information in accordance with this Article, as well as identifying the technical and financial needs associated with action programmes.

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ELABORATION OF AN INTERNATIONAL CONVENTION TO COMBAT DESERTIFICATION IN COUNTRIES EXPERIENCING SERIOUS DROUGHT AND/OR DESERTIFICATION, PARTICULARLY IN AFRICA

Working paper on the financial provisions of the Convention

Note by the Secretariat

1. During the fourth session of the Committee, the Chairman of the INCD invited Mr. Pierre Marc Johnson of Canada and Mr. Bolong Sonko of the Gambia to undertake informal consultations among delegations on the provisions of the Convention relating to financial resources and mechanisms. The objective of these consultations was to develop for the fifth session a new negotiating text of these provisions with the understanding that earlier proposals on the same articles would remain on the table. The text addresses in particular Articles 20 and 21 where there are currently no drafting proposals in document A/AC.241/15/Rev.3.

2. The attached working paper shows the results of these consultations in a line-in line-out format. It contains proposals for all Articles in document A/AC.241/15/Rev.3 related to financing except, as agreed in the Bureau, those dealt with in their entirety in document A/AC.241/L.18, "Proposed modifications to the negotiating text relating to categories of countries."

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PROPOSED CHANGES IN DOCUMENT A/AC.241/15/Rev.3
REGARDING FINANCIAL RESOURCES AND MECHANISMS

Preamble

Delete paragraph 18 and add new paragraph immediately after paragraph 13 reading as follows:

"*Reaffirming* in this light the commitments of the International Community, as contained in Paragraph 13 of Chapter 33 of Agenda 21, regarding the accepted United Nations target of 0.7 per cent of Gross National Product for Official Development Assistance,"

Replace paragraph 19 by the following:

"*Recognizing* the importance of the provision to affected developing countries, particularly in Africa, of effective means, inter alia increased financial resources and access to technology, without which it will be difficult for them to fully implement their commitments under this Convention,"

Article 4

Replace paragraph 2 (h) by the following:

"(h) favour the use of existing bilateral and multilateral arrangements that can provide new and additional resources to affected developing country Parties in combatting desertification and mitigating the effects of drought."

Article 9

Replace paragraph 2 with the following:

"2. In providing assistance under the terms of Article 6, priority shall be given to supporting, as mutually agreed, appropriate national, sub-regional and regional action programmes of affected developing country Parties, particularly those in Africa, either directly or through appropriate intergovernmental organizations, or both."

Article 13

Redraft subparagraph b to read as follows:

"(b) elaboration and use of cooperation mechanisms which better enable support at the local level, including through non-governmental organizations, and which ensure the replicability of successful pilot programme activities where relevant;"

Article 20

The proposed text of Article 20 would read as follows:

"*Financial resources*

1. Given the centrality of financing to the achievement of the objective of the Convention, the Parties shall make every effort, consistent with their capabilities, to ensure that adequate financial resources are available for programmes to combat desertification and mitigate the effects of drought. In doing so, they shall emphasize, consistent with Articles 4, 6 and 9, support for the

national, sub-regional and regional action programmes of affected developing country Parties, particularly those of affected African country Parties. In this connection, developed country Parties undertake to facilitate the mobilization of, and provide, adequate, timely and predictable funding in a way that permits the use of all available financial resources, including new and additional resources, as may be mutually agreed, where appropriate grants and concessional loans. Affected developing country Parties undertake to allocate adequate financial resources, including within their national budgets, to the implementation of the Convention.

2. In mobilizing financial resources, the Parties shall seek full use and continued qualitative improvement of all national, bilateral and multilateral funding sources and mechanisms, using consortia, joint programmes and parallel financing, and shall involve private sector funding sources and mechanisms, including those of non-governmental organizations. To this end, the Parties shall fully utilize the operational mechanisms developed pursuant to Article 14.

3. In order to mobilize the important financial resources necessary to combat desertification and mitigate the effects of drought, the Parties shall:

(a) rationalize the management of, and strengthen, resources already allocated for combatting desertification and mitigating the effects of drought by using them more effectively and efficiently, assessing their successes and shortcomings, removing hindrances to their effective use and reorienting programmes in light of the integrated long-term approach adopted pursuant to this Convention;

(b) give due priority and attention within the governing bodies of multilateral institutions, including international and regional financial institutions, to supporting affected developing country Parties, particularly those in Africa, in activities which advance implementation of the Convention, notably action programmes they undertake in the framework of Regional Implementation Annexes; and

(c) explore innovative methods and incentives for mobilizing and channelling financial resources, including those of foundations, non-governmental organizations and other private sector entities, particularly debt swaps and other innovative means which increase financing by reducing the debt burden of affected developing country Parties, particularly those in Africa."

Article 21

The proposed text of Article 21 would read as follows:

"Financial mechanisms

1. The Conference of the Parties shall seek to maximize the availability of funding for affected developing country Parties to implement the Convention. It shall consider inter alia approaches and policies that:

(a) assure funding of necessary global level activities pursuant to Articles 16 to 18 of this Convention;

(b) promote multiple-source funding approaches, mechanisms and arrangements, and their assessment, consistent with Article 4, paragraph 2(h) and with Article 20, paragraph 3(c);

(c) provide interested Parties and relevant intergovernmental and non-governmental organizations information on available sources of funds and on funding patterns in order to facilitate coordination among them;

(d) facilitate the establishment of mechanisms, such as trust funds, including those involving the participation of non-governmental organizations, to channel financial resources rapidly and efficiently to the local level; and

(e) permit the mobilization, through other activities, of various international fund dispensing arrangements and mechanisms at the national, sub-regional and regional levels.

2. The Conference of the Parties shall also encourage the provision, through various mechanisms within the United Nations system, of support at the national, sub-regional and regional levels to activities that enable developing country Parties to meet obligations pursuant to Article 14 and that allow implementation of paragraph 1."

3. In order to implement these approaches and policies, the Conference of the Parties shall, in cooperation with relevant intergovernmental organizations and other international institutions, assure the availability of mechanisms providing resources for activities described in paragraph 1. Such mechanisms shall include a fund or facility functioning under the authority and guidance of the Conference of the Parties, and accountable to it, to be established by the Conference of the Parties at the latest by its second regular session. This facility shall be funded as necessary through voluntary contributions and undertake activities listed in paragraph 1 which the Conference of Parties deems not to be effectively carried out by other mechanisms.

4. The Conference of the Parties shall set and review at least every two years the policies, operational modalities and programmes of the facility accountable to it pursuant to paragraph 3, taking into account the provisions of Article 7. On the basis of this review, it shall take appropriate action to improve the effectiveness of the facility."

5. Affected developing country Parties shall establish and/or strengthen national coordinating mechanisms, integrated in national development programmes, that would ensure the efficient use of all available financial resources. They shall also utilize participatory processes, involving non-governmental organizations, local groups and the private sector, in raising funds, in elaborating as well as implementing programmes and in assuring access to funding by groups at the local level.

6. To improve the flow of funds needed to implement the Convention, the Conference of the Parties shall maintain an inventory of available sources and uses of funds and assess their adequacy in relation to implementation requirements.

Article 22

Recast paragraph 2, subparagraph g to read:

"(g) approve a programme and budget for its activities, including those of its subsidiary bodies and facilities, and make arrangements for their financing from assessed contributions, voluntary contributions or the regular budgets of the United Nations and its specialized agencies;"